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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

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**Notice of Availability of the BLM's Responses to Public Comments and of the BLM's Environmental Assessment on the Proposed Order of the Secretary on Oil, Gas, and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Under the authority of the Mineral Leasing Act, as amended, on December 3, 2012 the Secretary of the Interior issued Order 3324 (2012 Secretary's Order) to address oil, gas, and potash leasing and development within the Designated Potash Area in Eddy and Lea counties in New Mexico. The 2012 Secretary's Order supersedes a previous Order issued in 1986 and corrected in 1987 that addresses these issues. In developing the 2012 Secretary's Order, a draft Order was released for a public comment period that began on July 13, 2012 and ended on August 31, 2012, 77 FR 41442. This Notice announces the availability of the Bureau of Land Management's (BLM) responses to the comments that were received during the comment period and the availability of the Environmental Assessment that was prepared by the BLM in developing the 2012 Secretary's Order.

**DATES:** Secretary's Order 3324 was published in the Federal Register on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

**ADDRESSES:** The comments that were received, the comment responses, and the Environmental Assessment are available for review at the following Website:

<http://www.blm.gov/nm/st/en/info/potash.html>.

**FOR FURTHER INFORMATION CONTACT:** Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe, New Mexico, 87508; e-mail: [therrell@blm.gov](mailto:therrell@blm.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

An area near the town of Carlsbad in southeastern New Mexico contains large deposits of potash, oil, and gas. Oil and gas have been produced from this area since the early twentieth century. In 1925, potash (potassium-bearing salts primarily used for fertilizer) was discovered in this area and has been mined since 1930.

The Secretary issued the first Potash Order in 1939 (4 FR 1012, February 25, 1939).

That Order withdrew approximately 43,000 acres of public land from oil and gas leasing to protect potash deposits. In 1951, the Secretary revoked the 1939 Order and issued a new Order authorizing concurrent development of oil and gas and potash reserves within an area comprising 298,345 acres under reciprocal lease stipulations to ensure that the development of either mineral would not interfere with development of the other (16 FR 10669, October 18, 1951). The Order was amended in 1965 (30 FR 6692, May 15, 1965), 1975 (40 FR 51486, November 5, 1975), and 1986 (51 FR 39425, October 28, 1986). A correction to the 1986 Order was issued in 1987 (52 FR 32171, August 26, 1987). The potash area designated by the corrected 1986 Order comprises approximately 497,000 acres, and the 2012 Secretary's Order, published on [INSERT DATE OF

PUBLICATION IN THE FEDERAL REGISTER], does not alter the boundaries of the area.

The potash deposits in this area occur from 800 feet to over 2,000 feet beneath the surface and are mined by both conventional and solution mining methods; conventional methods require miners to be underground. The oil and gas in the area is found in formations below the potash-bearing formations, so oil and gas wells must extend through potash formations. If potash mining were to breach a well casing, or if a well casing near a potash mine failed for other reasons, gas could migrate into the mine workings, thus endangering the miners. Additionally, the potential for such a breach could raise the costs of potash mining due to the need to utilize enhanced ventilation techniques and specialized equipment needed to mine in a gas-filled environment. Given these safety risks, it has been a challenge to produce potash and oil and gas at the same time in the same area. This challenge has led to a long history of conflict between the potash and the oil and gas industries.

This conflict has resulted in a great deal of litigation regarding decisions made by the BLM on a variety of potash or oil and gas development applications. Nevertheless, leading members of the two industries have initiated efforts to work together over the past 2 years. A number of productive meetings and discussions have occurred among many of the parties involved in these previous disputes. Additionally, there have been significant advances in the technology of oil and gas drilling that could be used to reduce the conflict between such drilling and the extraction of potash. Further, the economic outlook for both the oil and gas industry and the potash industry has recently improved. The BLM has also worked with Sandia National Laboratories to investigate well-logging

technology, gas migration in the potash formations, and standards to use for estimating the mineability of potash and potash cutoff grades. These circumstances led to review of the 1986 Secretary's Order.

### **The 2012 Secretary's Order**

The 2012 Secretary's Order differs from the 1986 Order as described below.

The 2012 Secretary's Order authorizes the BLM to establish "Development Areas" where oil and gas wells can be drilled from one or more "Drilling Islands." The Drilling Island concept was first introduced in the 1975 Secretary's Order. In most cases, a single Drilling Island will be established for each Development Area, but if circumstances dictate, the BLM may establish additional Drilling Islands. Drilling Islands will be situated in such a manner that extended reach horizontal wells could access oil and gas within the associated Development Area. Unless there is a compelling reason for not operating under a unitization or communitization agreement, the 2012 Secretary's Order envisions that the oil and gas leases in a Development Area will be unitized under the regulations found at 43 CFR subpart 3180 and developed by a unit operator, or operated under a communitization agreement as authorized under 43 CFR subpart 3105. These oil and gas reservoir management tools should lead to more orderly development of the oil and gas resources in the Development Area and minimize impacts to surface resources due to a reduction in the number of drill pads and associated roads, power lines, and other ancillary facilities. Moreover, the resulting reduction in the number and spacing of oil and gas drilling locations where wells penetrate the potash formation is expected to minimize impacts to potash resources and enhance the safety of underground potash miners.

The BLM envisions that a substantial portion of the Designated Potash Area will eventually be divided into Development Areas designed to minimize the impacts to potash mining while allowing for the development of oil and gas resources. The BLM expects that the oil and gas in Development Areas will largely be developed with extended-reach horizontal wells using the most current technology, consistent with applicable laws and regulations.

The 2012 Secretary's Order retains several important features of the 1986 Order, including the boundaries of the Designated Potash Area established in the 1986 Order, as corrected in 1987. The Secretary's Order also retains language of the 1986 Order for stipulations for oil and gas leases and potash leases issued, reinstated, renewed, or readjusted in the Designated Potash Area.

The formatting is modified to be consistent with the Department of the Interior's (Department) style requirements for Secretary's Orders. These requirements were changed in 1992 and are recorded in Section 012 DM 1 of the Departmental Manual.

#### **Comments on the Draft Order**

The BLM received 28 comment letters during the comment period, including 41 distinct comments. These comments and the BLM's responses to them are available for review at the following Website:

<http://www.blm.gov/nm/st/en/info/potash.html>.

## **Environmental Assessment**

Pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., and BLM's implementing regulations, the BLM prepared an Environmental Assessment (EA) in conjunction with the development of the 2012 Secretary's Order. Based on the EA, a Finding of No Significant Impact (FONSI) was made. The EA/FONSI is available for review at the following Website: <http://www.blm.gov/nm/st/en/info/potash.html>.

AUTHORITY: 40 CFR 1506.6, 43 CFR 3164.1, 43 CFR 3590.2

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Mike Pool

Bureau of Land Management

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